

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

OLGA ZAMORA, Guardian ad litem for
Maria Zamora, and JOSE ZAMORA,
Guardian ad litem for Omar Zamora and
Edgar Zamora,

Plaintiffs,

V.

CITY OF OAKLAND, ANTHONY BATT,
CITY OF SAN FRANCISCO and GEORGE
GASCON,

Defendants.

Case No. 12-cv-02734 NC

**ORDER RE: SUPPLEMENTAL
MATERIALS IN OPPOSITION TO
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

Re: Dkt. Nos. 31, 33

Pending before the Court is a motion for summary judgment filed by defendants City of San Francisco and George Gascon. Dkt. No. 31. The Zamoras have filed an opposition brief that states under Federal Rule of Civil Procedure 56(d) that the Zamoras cannot present facts essential to justify their opposition. Dkt. No. 33 at 7-8. The brief, and attached declaration of attorney James Martinez do not explain (1) how the unavailable facts are “essential” to the opposition; and (2) whether the Zamoras were diligent in pursuing discovery from the moving defendants before the fact discovery deadline in this case. For example, the brief, and attached declaration state that the City of San Francisco has refused to produce video and audio tapes of the incident, Dkt. Nos. 33 at 8:8-10; 33-1

1 ¶ 9, but do not submit any evidence establishing the existence of such materials, the specific
2 response by the City of San Francisco to the request for such materials, or the reason why
3 the Zamoras did not move to compel this discovery.

4 Accordingly, by July 30, 2013, the Zamoras may file a supplemental declaration,
5 which may be accompanied by attachments, seeking to establish that the unavailable facts
6 are essential and that they were diligent in pursuing this essential discovery.

7 IT IS SO ORDERED.

8 Date: July 23, 2013


9 Nathanael M. Cousins
United States Magistrate Judge

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